

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA

v.

CRIMINAL ACTION NO. 2:04CR26-1

FRANCISCO M. DANTAS, JR.,
Defendant.

ORDER/OPINION

On the 10th day of May, 2005, came the United States of America by Stephen Warner, Assistant United States Attorney, and also came the defendant, Francisco M. Dantas. Jr., in person, and by his counsel, Scott Curnutte, for hearing on the Report of Defendant Under Supervision filed by United States Adult Pretrial Supervision Officer Mark Sneberger alleging that Defendant violated Conditions No. 1 and 7(p) of his Conditions of Release by using heroin on two occasions during the month of March.

I. Procedural History

On November 2, 2005, Defendant Francisco M. Dantas, Jr., was released on conditions set by Order. On April 7, 2005, pre-trial services officer Mark A Sneberger filed a "Report of Defendant Under Supervision." By Order dated April 7, 2005, United States Magistrate Judge John S. Kaull directed a summons be issued for Defendant to appear before the Court.

Defendant appeared in person and by his counsel, Scott Curnutte. The United States appeared by Stephen Warner, its Assistant United States Attorney. Counsel for Defendant stated in open court that Defendant was not contesting the allegations in the Report, but only asked the Court to consider additional information before revoking Defendant. Defendant's counsel requested Defendant be permitted to remain free on bond for the amount of time necessary to titrate himself from Methadone, in order that he not suffer withdrawal symptoms. Counsel

estimated this would take approximately two weeks.

United States Adult Pretrial Services Officer Eydie Feathers informed the Court, as well as counsel, that she had received an email on the morning of the hearing from the Pretrial Services Officer supervising Defendant in Maryland, alleging that Defendant admitted using Heroin again during the past weekend.

The Court called a brief recess in order that Defendant be able to confer with his counsel. Following the recess, counsel for Defendant stated that Defendant waived the hearing and requested the Court take whatever action it deemed appropriate.

The undersigned therefore concludes there is clear and convincing evidence that Defendant violated conditions 1 and 7(p) of the Order Setting Conditions of Release entered November 2, 2005.

It is therefore **ORDERED** that, pursuant to the provisions of 18 U.S.C. §3148 (a) , (b)(1)(B) and (2)(A) and (B), the release of Defendant Francisco M. Dantas, Jr. on conditions is **REVOKED** and that:

- 1) Defendant be **REMANDED** to the custody of the United States Marshal pending further proceedings in this case;
2. Defendant be confined in a facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal;
3. Defendant be afforded a reasonable opportunity for private consultation with defense counsel;
4. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility in which Defendant is confined shall deliver Defendant to the United States Marshal for the purpose

of an appearance in connection with a court proceeding; and

5. The Clerk shall direct copies of this order to counsel for the United States, to counsel for the defendant, to the United States Marshal, and to the United States Probation Officer.

DATED: June 1, 2005.

/s *John S. Kaul*

JOHN S. KAULL

UNITED STATES MAGISTRATE JUDGE